THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.8294 of 2007

Date: 20.04.2007

Between:

K.P.Veerabhadra Chari.

....Petitioner

And

The Assistant Divisional Engineer and another.

....Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.8294 of 2007

O R D E R:

Petitioner challenges the order of provisional assessment, dated 09.03.2007, issued by the respondents. The premises of the petitioner were inspected on 04.12.2006 and on finding that the petitioner had bypassed the meter by twisting the wires from outside, the respondents issued a notice of provisional assessment, indicating that the petitioner is liable to pay a sum of Rs.36,732/-. Petitioner complains that the power supply was disconnected on 04.12.2006 itself. The same was restored on payment of a sum of Rs.9,000/- by the petitioner on 30.12.2006. The grievance of the petitioner is that the respondents are insisting on payment of the balance amount covered by the notice of provisional assessment, even while the proceedings for final assessment are pending.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

Basically, the liability of a consumer of electric

power, in the context of any acts of pilferage or malpractices being noticed, needs to be determined, in accordance with Section 126 of the Electricity Act, 2003, in an order of final assessment. The amount indicated in the notice of provisional assessment cannot be treated as final. To ensure continued power supply, the petitioner had already paid a sum of Rs.9,000/-. If the petitioner is required to pay the balance amount covered by the notice of provisional assessment, the very proceedings, for passing the order of final assessment, become nugatory.

For the foregoing reasons, the Writ Petition is allowed and the respondents are directed not to insist on payment of balance amount indicated in the notice of provisional assessment. The actual liability of the petitioner shall depend upon the outcome of the final assessment proceedings. There shall be no order as to costs.

20.04.2007

Note: Issue C.C. in two days.

(B/o)

JSU

is connected with power supply, through Service Connection No.11809, under Category-II. On the basis of an inspection caused on 23.09.2006, the third respondent issued a notice of provisional assessment. The loss of revenue to the Company was provisionally assessed at Rs.12,59,857/-. The petitioner was required to submit explanation and was also given an option, to pay half of the said amount, in case, it wants continued power

supply. The petitioner had accordingly paid half of the amount on 29.09.2006. The proceedings for passing the order of final assessment are pending. The grievance of the petitioner is that the third respondent is demanding the balance of the amount covered by the notice of provisional assessment, even while the proceedings for final assessment are pending.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

Basically, the liability of a consumer of electric power, in the context of any acts of pilferage or malpractices being noticed, needs to be determined, in accordance with Section 126 of the Electricity Act, 2003, in an order of final assessment. The amount indicated in the notice of provisional assessment cannot be treated as final. To ensure continued power supply, the petitioner had already paid half of the amount indicted in the notice. If the petitioner is required to pay the balance amount, the very proceedings, for passing the order of final assessment, become nugatory.

For the foregoing reasons, the Writ Petition is allowed and the respondents are directed not to insist on payment of balance amount indicated in the notice of

provisional assessment. The actual liability of the petitioner shall depend upon the outcome of the final assessment proceedings. If the petitioner has not submitted its explanation so far, it shall be entitled to file it, within a period of two (2) weeks from today. There shall be no order as to costs.

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29.03.2007

Note: Issue operative portion of the order
by wire at party's costs.
(B/o)
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